UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DENISE LOWE, on behalf of herself and all others similarly situated,

Plaintiffs,

-against-

DEBT RECOVERY SOLUTIONS, LLC

Defendants.

Civil Action Number:

CIVIL ACTION

CLASS ACTION COMPLAINT
AND
DEMAND FOR JURY TRIAL

Plaintiff DENISE LOWE (hereinafter, "Plaintiff"), a New York resident, brings this class action complaint by and through his attorneys, Sirotkin Varacalli & Hamra, LLP, against Defendant DEBT RECOVERY SOLUTIONS, LLC (hereinafter "Defendant"), individually and on behalf of a class of all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon information and belief of Plaintiff's counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

JURISDICTION AND VENUE

1. The Court has jurisdiction over this class action under 28 U.S.C. § 1331, 15 U.S.C. § 1692 *et seq.* and 28 U.S.C. § 2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. § 1367(a).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

NATURE OF THE ACTION

3. Plaintiff brings this class action on behalf of a class of New York consumers seeking redress for Defendant's illegal practices, in connection with the collection of a debt allegedly owed by Plaintiff in violation of the Fair Debt Collection Practices Act, ("FDCPA), 15 U.S.C. § 1692, *et seq.* ("FDCPA").
4. Defendant's actions violated § 1692 *et seq.* of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA") which

prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

5. Plaintiff is seeking damages, and declaratory and injunctive relief.

PARTIES

6. Plaintiff is a natural person and a resident of the State of New York, and is a "Consumer" as defined by 15 U.S.C. §1692(a)(3).

7. Defendant is a collection agency with a principal place of business in Syosset, NY.

8. Defendant is a company that uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due another.

9. Defendant is a "debt collector," as defined under the FDCPA under 15 U.S.C. § 1692a(6).

CLASS ALLEGATIONS

10. Plaintiff brings claims, pursuant to the Federal Rules of Civil Procedure (hereinafter "FRCP") Rule 23, individually and on behalf of the following nationwide consumer class (the "Class"):

   - All New York consumers who were sent collection letters and/or notice from Defendant attempting to collect an obligation owed to or allegedly owed to Verizon Vision5, in which the Defendant improperly attempted to collect on an alleged debt, in violation of 15 U.S.C. §1692 *et seq*.
   - The Class period begins one year to the filing of this Action.

13. The Class satisfies all the requirements of Rule 23 of the FRCP for maintaining a class action:

   - Upon information and belief, the Class is so numerous that joinder of all members is impracticable because there are hundreds and/or thousands of persons who have received debt collection letters and/or notices from the Defendant that violate specific provisions of the FDCPA. Plaintiff is complaining of a standard form letter and/or notice that was sent to hundreds of persons (*See* **Exhibit A,** except that the undersigned attorney has, in accordance with Fed. R. Civ. P. 5.2 partially redacted the financial account numbers in an effort to protect Plaintiff's privacy);

- There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

  a. Whether Defendant violated various provisions of the FDCPA;

  b. Whether Plaintiff and the Class have been injured by Defendant's conduct;

  c. Whether Plaintiff and the Class have sustained damages and are entitled to restitution as a result of Defendant's wrongdoing and if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

  d. Whether Plaintiff and the Class are entitled to declaratory and/or injunctive relief.

- Plaintiff's claims are typical of the Class, which all arise from the same operative facts and are based on the same legal theories.

- Plaintiff has no interest adverse or antagonistic to the interest of the other members of the Class.

- Plaintiff will fairly and adequately protect the interest of the Class and has retained experienced and competent attorneys to represent the Class.

- A Class Action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

- A Class Action will permit large numbers of similarly situated persons to prosecute their common claims in a single forum simultaneously and without the duplication of effort and expense that numerous individual actions would engender. Class treatment will also permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a Class Action, class members will continue to suffer losses of statutory protected rights as well as monetary damages. If Defendant's conduct is allowed proceed to without remedy they will continue to reap and retain the proceeds of their ill-gotten gains.

- Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

ALLEGATIONS OF FACT

14. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "13" herein with the same force and effect as if the same were set forth at length herein.

15. Defendant collects and attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone and Internet.

16. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) of the FDCPA.

17. Upon information and belief, within the last year Defendant commenced efforts to collect an alleged consumer "debt" as defined by 15 U.S.C. 1692a(5), when it mailed a Collection Letter to Plaintiff seeking to collect an alleged past due balance allegedly owing to Verizon Vision5.

18. On or about October 06, 2016, Defendant sent Plaintiff a collection letter. *See* Exhibit A.

19. The letter was sent or caused to be sent by persons employed by Defendant as a "debt collector" as defined by 15 U.S.C. §1692a(6).

20. The letter is a "communication" as defined by 15 U.S.C. §1692a(2).

21. Said October 06, 2016 Collection Letter provided that the alleged amount due was $387.45.

22. Said October 06, 2016 Collection Letter provided that the alleged that the Original Creditor is Verizon Vision5.

23. There is no entity that exists with the name Verizon Visons.

24. A search for Verizon Vision5 on the NY Department of State, Division of Corporations, Corporation & Business entity Database, rendered no results.

25. The Plaintiff therefore could not have incurred any debt to a fictional, non-existing entity.

26. Said October 06, 2016 Collection Letter stated in pertinent part: "Our company purchased this delinquent account from the creditor identified above."

27. Above that statement the only creditor Identified was "Verizon Vision5."

28. Defendant was attempting to collect on Plaintiff's purportedly overdue debt allegedly owed to "Verizon Vision5."

29. Defendants could have taken the steps necessary to bring its actions within compliance with the FDCPA, but neglected to do so and failed to adequately review its actions to ensure compliance with the law**.**

30. On information and belief, Defendants sent a written communication, in the form annexed hereto as **Exhibit A** to at least 50 natural persons in the state of New York within one year of the date of this Complaint.

First Count
Violation of 15 U.S.C. § 1692g
Validation of Debts

31. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "30" herein with the same force and effect as if the same were set forth at length herein.

32. 15 U.S.C. § 1692g provides that within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

33. One such request is that the debt collector provide "the name of the creditor to whom the debt is owed." 15 U.S.C. § 1692g(a)(2).

34. A debt collector has the obligation not just to convey the name of the creditor to whom the debt is owed, but also to convey such clearly.

35. A debt collector has the obligation not just to convey the name of the creditor to whom the debt is owed, but also to state such explicitly.

36. Merely naming the creditor without specifically identifying the entity as the current creditor to whom the debt is owed is not sufficient to comply with 15 U.S.C. § 1692g(a)(2).

37. Even if a debt collector conveys the required information, the debt collector nonetheless violates the FDCPA if it conveys that information in a confusing or contradictory fashion so as to cloud the required message with uncertainty.

38. When determining whether the name of the creditor to whom the debt is owed has been conveyed clearly, an objective standard, measured by how the "least sophisticated consumer" would interpret the notice, is applied.

39. Defendant's letter fails to explicitly identify the name of the creditor to whom the debt is owed.

40. Defendant's October 06, 2016 letter to Plaintiff fails to identify any creditor to whom the debt is owed.

41. All Letters sent to the Plaintiff as communications in an attempt to collect on a debt, failed to identify a creditor to whom the debt is owed.

42. Indeed, Defendant's letter fails to identify any entity or individual as a "creditor."

43. Defendant's letter states, "Original Creditor: Verizon Vision5."

44. No entity exists with the name "Verizon Vision5."

45. The letter fails to indicate who sold or referred the account to Defendant.

46. Defendant failed to explicitly state the name of the creditor to whom the debt is owed.

47. The least sophisticated consumer would likely be confused as to the creditor to whom the debt is owed.

48. The least sophisticated consumer would likely be uncertain as to the creditor to whom the debt is owed.

49. Defendant has violated § 1692g as it failed to clearly and explicitly convey the name of the creditor to whom the debt is owed.

50. Defendant could have taken the steps necessary to bring its actions within compliance with the FDCPA, but neglected to do so and failed to adequately review its actions to ensure compliance with the law.

51. Defendant sent a written communication, in the form annexed hereto as **Exhibit A** to at least 50 natural persons in the State of New York within one year of the date of this Complaint.

Second Count
Violation of 15 U.S.C. § 1692e
False or Misleading Representations as to the Name of the
Creditor to Whom the Debt is Owed

52. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “51” herein with the same force and effect as if the same were set forth at length herein.

53. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

54. While § 1692e specifically prohibits certain practices, the list is non-exhaustive, and does not preclude a claim of falsity or deception based on any non-enumerated practice.

55. Collection notices are deceptive if they can be reasonably read to have two or more different meanings, one of which is inaccurate.

56. The question of whether a collection letter is deceptive is determined from the perspective of the “least sophisticated consumer.”

57. For purposes of 15 U.S.C. § 1692e, the failure to clearly and accurately identify the creditor to whom the debt is owed is unfair and deceptive to the least sophisticated consumer.

58. Because the collection letter in the instant case is reasonably susceptible to an inaccurate reading, as described above, it is deceptive within the meaning of 15 U.S.C. § 1692e.

59. The letter states that the Original Creditor of the alleged Debt is “Verizon Vision5.”

60. No entity exists with the name “Verizon Vision5.”

61. Verizon Vision5 was never the original creditor.

62. The letter states Plaintiff owes the Original Creditor $387.45.

63. That is a false statement since no entity called “Verizon Vision” exists, making it impossible for Plaintiff to owe any debt to “Verizon Vision5.”

64. Said October 06, 2016 Collection Letter stated in pertinent part: “Our company purchased this delinquent account from the creditor identified above.”

65. Above that statement the only creditor Identified was “Verizon Vision5.”

66. Since no entity exists with the name “Verizon Vision5” it would have been impossible for Defendant to purchase such account from a company called “Verizon Vision5.”

67. The Defendant made false representations as to the debt owed.

68. The Defendant made false representations as to the name of the Original Creditor.

69. The Defendant made false representations as to whom they purchased the alleged delinquent account from.

70. The least sophisticated consumer would likely be deceived by Defendant's conduct.

71. The least sophisticated consumer would likely be deceived in a material way by Defendant's conduct.

72. Defendant has violated § 1692e by using a false, deceptive and misleading representation in its attempt to collect a debt.

THIRD COUNT
Violation of 15 U.S.C. §§ 1692e
False or Misleading Representations

73. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “72” herein with the same force and effect as if the same were set forth at length herein.

74. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representations or means in connection with the collection of any debt.

75. The question of whether a collection letter is deceptive is determined from the perspective of the “least sophisticated consumer.”

76. § 1692e(2)(A) prohibits the false representation of the character, amount, or legal status of any debt.

77. Defendant violated § 1692e by making a false representation as to character, amount and legal status of the alleged debt.

78. The "least sophisticated consumer" would likely deceived that he or she actually owe a fictional debt.

79. The "least sophisticated consumer" would likely deceived that he or she actually incurred an obligation in the form of a debt to a fictional entity, labeled by the Defendant as "Verizon Vision5."

80. The least sophisticated consumer would likely be deceived in a material way by the Defendant's conduct.

81. Defendant has violated § 1692e by using a false, deceptive and misleading representation in its attempt to collect an alleged debt.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

(a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative, and Abraham Hamra, Esq., as Class Counsel;

(b) Awarding Plaintiff and the Class statutory damages;

(c) Awarding Plaintiff and the Class actual damages;

(d) Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;

(e) Awarding pre-judgment interest and post-judgment interest; and

(f) Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper.

Dated: October 28, 2016

Respectfully submitted,

By:__/s/ Abraham Hamra______
Abraham Hamra, Esq.
Sirotkin Varacalli & Hamra, LLP
110 East 59th Street, Suite 3200
New York, New York 10022
Phone: (646) 590-0571
Attorneys for Plaintiff

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

By:__/s/ Abraham Hamra______
Abraham Hamra, Esq.

Dated: October 28, 2016